

**TENNESSEE ETHICS COMMISSION**  
**ADVISORY OPINION NO. 07-02**  
**July 31, 2007**  
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Interpretation of T.C.A. § 3-6-305(b)(6)  
with respect to Members of the Legislature  
participating in a charitable event in which  
their cost of attending is paid for by an employer of a lobbyist.

**INTRODUCTION:**

The following Advisory Opinion is in response to a request from Representative Randy S. Rinks, Majority Caucus Chairman, with regard to a charitable event hosted by the Rural West Tennessee Democratic Caucus (“Caucus”) to benefit the St. Jude Children’s Research Hospital (“St. Jude”).

Representative Rinks asks the following questions:

(1) Does the Ethics Reform Act (“Act”) permit legislators to participate in this event even if an organization that employs a lobbyist may have paid St. Jude for the sponsorship of the team?

(2) St. Jude, as a part of the tournament, has a reception for all participants and volunteers. Does the Act permit legislators to attend such a reception even if St. Jude credits the reception to an organization which may employ a lobbyist?

(3) St. Jude, as part of the tournament, provides participants and volunteers with goodie bags. Does the Act permit legislators to receive “goodie bags” that have items some of which may have been donated by organizations that employ lobbyists?

(4) St. Jude provides complimentary beverages on the day of the event. Does the Act permit legislators to receive complimentary beverages?

In response to the above questions, the Tennessee Ethics Commission (“Commission”) concludes the following:

(1) Yes. Since the event is open to the first 50 (or the chosen number for 2007) sponsors, this constitutes an “appropriate class of the general public” and the charitable event exception to the gift ban is applicable.

(2) Yes. Legislators may attend the reception because it is allowable under the “charitable events exception” analyzed in Question 1.

(3) Yes. Legislators may receive a “goodie bag” as long the legislators do not receive an enhanced or special “goodie bag.”

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(4) Yes. Legislators may receive beverages provided by St. Jude as part of the tournament, even if employers of lobbyists have contributed to St. Jude to make it possible for St. Jude to provide the beverages.

**BACKGROUND:**

The Caucus annually hosts the Wild West Shootout to benefit St. Jude, which is itself an employer of a lobbyist. This is a charity golf event with 100% of all funds raised and all donations made going exclusively to St. Jude. From the funds raised, St. Jude pays for all expenses incurred and prizes given at the tournament. The Caucus has held this event for the past fourteen (14) years, raising over \$730,000.00 during that time.

The event is open to anyone who pays the registration fee. Sponsors provide checks directly to St. Jude. Sponsors may include entities that directly employ a lobbyist.

Representative Rinks has provided the Commission a copy of the 2006 announcement for the event. For 2006, the field was limited to the first 50 teams which paid in advance. Team sponsorship was set at either \$1,500.00 or \$1,000.00 per team. The format of the tournament “is a four person scramble and each team sponsor is responsible for creating his or her own team.”

Representative Rinks states that all expenses associated with the Wild West Shootout and all prizes awarded for the golf tournament are paid directly by St. Jude.

**DISCUSSION:**

T.C.A. § 3-6-305(a)(1) provides that no lobbyist or employer of a lobbyist may provide a gift, directly, or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

However, the statute contains numerous exceptions to this gift prohibition<sup>1</sup> which may apply to the current facts.

(1) Does the Act permit legislators to participate in this event even if an organization that employs a lobbyist may have paid St. Jude for the sponsorship of the team?

Representative Rinks’ question specifically refers to those employers of lobbyists that contribute to St. Jude to sponsor the fundraising event. However, the issue of sponsorship by employers of lobbyists need not be addressed under these facts because St. Jude is, itself, a registered employer of a lobbyist and, according to Representative Rinks, it is St. Jude which receives the sponsorship money and is, in turn, responsible for all expenses incurred and prizes awarded in the tournament.

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<sup>1</sup> For a complete list of exceptions, see T.C.A. § 3-6-301(11) and §3-6-305(b)(1) – (11).

One of the exceptions to the gift prohibition is T.C.A. § 3-6-305(b)(6), which provides:

(b) The following are not subject to the prohibition in subsection (a):

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:

(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in § 48-101-501(1), if provided by an employer of a lobbyist to an official in the executive branch or to an official in the legislative branch; provided, that such events must be open to participation by persons other than officials in the executive branch or officials in the legislative branch or such official's immediate family and any benefits received must not be enhanced due to the status of the official in the executive or legislative branch, or provided that invitations are extended to the entire membership of the general assembly.

This exception permits an official in the executive or legislative branch to attend a charitable event sponsored by an employer of a lobbyist if: (1) such events are open to participation by persons other than the legislative official or such official's immediate family, (2) any benefits received are not enhanced due to the status of the official, and (3) participation in the event is an opportunity and benefit made available to all members of an appropriate class of the general public (note that the phrase "appropriate class of the general public" must be read in conjunction with the phrase found in § 3-6-305(b)(6)(C), ". . . that such events must be open to participation by persons other than . . . officials in the legislative branch . . .").

Under the facts set forth in Representative Rinks' request, the Wild West Shootout is open to anyone who pays the registration fee to be a team sponsor. The event is therefore not limited to officials in the legislative branch, but is instead open to any member of the general public who is one of the first 50 to purchase a team sponsorship. In addition, other levels of sponsorship are available to the public, including sponsorship of a hole or a prize. Although there are different levels of sponsorship, there is no indication from the facts presented that St. Jude enhances participation in, or prizes awarded, in any way due to an individual's status as a state legislator.

Accordingly, the Wild West Shootout is hosted by the Caucus but is paid for by St. Jude, a registered employer of a lobbyist, as a benefit for the charitable organization, and St. Jude:

- (a) allows participation by persons other than an official in the executive or legislative branch or such official's immediate family,
- (b) does not enhance any of the benefits of participation that it provides due to the status of the legislative official, and

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- (c) makes the opportunity and benefit of participation available to all members of an appropriate class of the general public (e.g., the first 50 teams to pay in advance).

Thus, although St. Jude is a registered employer of a lobbyist that is paying for all of the expenses of the tournament and for the prizes awarded in the tournament, the Wild West Shootout meets the above-referenced “charitable events exception” to the gift ban and legislators may participate in the golf tournament.

(2) St. Jude, as a part of the tournament, has a reception for all participants and volunteers. Does the Act permit legislators to attend such a reception even if St. Jude credits the reception to an organization which may employ a lobbyist?

Although other individuals or entities may provide donations for, or sponsorship to, the event, all funds are remitted to St. Jude, a registered employer of a lobbyist, and St. Jude is responsible for determining what benefits will be provided and how much St. Jude chooses to pay for such benefits. Attendance at the reception, however, is allowable under the “charitable events exception” analyzed in Question 1, above; e.g.:

- (a) the reception is not limited to legislators, but open to participation by all Wild West Shootout participants and volunteers, and
- (b) there is no indication under the facts given that legislators receive any benefits which are not also provided to all other non-legislative official participants and volunteers.

Accordingly, attendance at the Wild West Shootout reception is a benefit of participation in a charitable event and it is therefore allowable under T.C.A. § 3-6-305(b)(6)(C).

(3) St. Jude, as part of the tournament, provides participants and volunteers with goodie bags. Does the Act permit legislators to receive “goodie bags” that have items some of which may have been donated by organizations that employ lobbyists?

See the analysis contained in Question 2, above. All participants and volunteers are eligible to receive a goodie bag, and there is no indication that legislative officials receive a goodie bag that is different from the bag provided to all other non-legislative participants and volunteers. Accordingly, the goodie bags are a benefit of participation in a charitable event and therefore allowable under T.C.A. § 3-6-305(b)(6)(C).

(4) St. Jude provides complimentary beverages on the day of the event. Does the Act permit legislators to receive complimentary beverages?

Legislators may receive complimentary beverages on the day of the event as they are a benefit of participation in the tournament. See Question 2 above.

**CONCLUSION:**

Under the facts presented to the Commission, St. Jude is a non-profit registered employer of a lobbyist for whom the Caucus holds a Wild West Shootout fundraising event each year. The issue of whether an employer of a lobbyist may contribute to or sponsor the Wild West Shootout is not relevant to the particular facts of this charitable event because the charity controls all expenses related to the event and the charity is an employer of a lobbyist. Although T.C.A. § 3-6-305(a)(1) prohibits an employer of a lobbyist from providing a direct or indirect gift to an official in the legislative branch, T.C.A. § 3-6-305(b)(6)(C) provides a “charitable event exception” to this gift ban. Based upon the information provided by Representative Rinks, the Wild West Shootout is open to an appropriate class of the general public (e.g., the first 50 sponsors to pay St. Jude in advance), the receipt of food, drinks and goodie bags is not limited to legislative officials but instead these items are equally available to all participants and volunteers, and St. Jude does not enhance any of the benefits of participation (including the prizes awarded, meals and entertainment provided, and goodie bags provided) based upon an individual’s status as a legislative official. Accordingly, although St. Jude is a registered employer of a lobbyist, the Wild West Shootout meets the exception contained in T.C.A. § 3-6-305(b)(6)(C) and legislators may attend the golf tournament and the tournament reception and may also receive the same goodie bag as all other attendees and volunteers.

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